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## Viewing cable 05CARACAS2404, REACTION TO IACHR VARGAS DECISION

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### Understanding cables

Every cable message consists of three parts:

- The top box shows each cable's unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

To understand the justification used for the classification of each cable, please use this [WikiSource](#) article as reference.

### Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags **#cablegate** and a hash containing the reference ID e.g. **#05CARACAS2404**.

Reference ID	Created	Released	Classification	Origin
<a href="#">05CARACAS2404</a>	<a href="#">2005-08-08 19:47</a>	<a href="#">2011-08-30 01:44</a>	<a href="#">CONFIDENTIAL</a>	<a href="#">Embassy Caracas</a>

Appears in these articles:

<http://www.nacion.com/2011-03-12/Investigacion/NotasDestacadas/Investigacion2711772.aspx>  
<http://www.nacion.com/2011-03-10/Investigacion/NotasDestacadas/Investigacion2707705.aspx>  
<http://www.nacion.com/2011-03-10/Investigacion/NotasSecundarias/Investigacion2707712.aspx>  
<http://www.nacion.com/2011-03-10/Investigacion/NotasSecundarias/Investigacion2707716.aspx>

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L CARACAS 002404

SIPDIS

NSC FOR CBARTON  
USCINCSO ALSO FOR POLAD

E.O. 12958: DECL: 02/25/2014  
TAGS: [PGOV](#) [PHUM](#) [PREL](#) [SOCI](#) [CS](#) [VE](#)  
SUBJECT: REACTION TO IACHR VARGAS DECISION

REF: STATE 01544

Classified By: DEPUTY CHIEF OF MISSION JOHN CREAMER 1.4 (d)

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SUMMARY  
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1. (C) The Inter-American Court of Human Rights (IACHR) passed a resolution accepting Venezuela's admission of responsibility for all charges in the case of Blanco Romero y Otros vs. Venezuela. The Inter-American Commission on Human Rights (the Commission) and representatives for the victims (the defense) alleged that the GOV had violated articles of the Inter-American Charter on Human Rights (the Charter) protecting life, personal integrity and liberty, and had failed to provide judicial remedies sufficient to protect those rights. The GOV's written concession June 28 contradicted allegations regarding due process and state responsibility, and was rejected by the defense. However the court, after clarifying the nature of the GOV's concession via oral testimony, passed a resolution accepting the concession. Venezuelan human rights leaders viewed the hearing as a validation of the victims' families quest for justice. Still, the GOV's subsequent attempts to cloud its ultimate responsibility in the public's eye cast doubt as to whether the GOV was acting in good faith. The ultimate test of GOV intentions will be whether it complies with the IACHR's sentence which is expected this fall. End summary.

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Commission Brings Case Before IACHR  
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12. (U) The Inter-American Commission on Human Rights (the Commission) brought the case of Blanco Romero y Otros vs. Venezuela before the IACHR in June 2004. The Commission's allegations in the suit stemmed from the forced disappearances of Oscar Blanco Romero, Roberto Hernandez Paz and Jose Rivas Fernandez following a natural disaster in the Vargas region in 1999, when torrential rains and mudslides left approximately 20,000 dead and resulted in widespread lawlessness. According to testimony provided by the victim's families to the Inter-American Court, security forces - tasked by the GOV with maintaining public order - arrested Blanco, Hernandez and Rivas during its round-up of looting suspects. None of the victims was seen by their families again and, after the GOV's investigations stalled and separate Venezuelan courts ruled against motions of habeas corpus, the victim's families turned to the Commission to obtain justice in the case.

13. (U) The Commission charged the GOV with the violation of the victims' rights to life, integrity and liberty under the Charter. For its failure to properly investigate and prosecute the victims' disappearances, the Commission also charged the GOV with violating Article 8 (Judicial Guarantees) and Article 25 (Judicial Protection) of the same charter. The Commission requested that the IACHR issue a declaration of state responsibility for the charges dealing with personal integrity and judicial guarantees contained under Articles 5, 8 and 25. The suit brought by the Commission also noted that the GOV had violated several articles under the Inter-American Charter on Forced Disappearances and the Inter-American Charter on the Prevention and Sanctioning of Torture.

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Defense Cites GOV For Lack Of Due Process  
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14. (U) In October 2004, representatives of the victims and the victims' families (the defense) presented several more allegations against the GOV before the IACHR. Most of the defense's additional charges centered on the lack of due process in the case. The defense charged the GOV with "violating the families' and Venezuelan society's right to the truth" as to what occurred in Vargas in December 1999 under articles 1, 8, 13, 25 and of the Charter. The defense also alleged that the GOV had not fulfilled its duty to provide Venezuelans with judicial recourse sufficient to guarantee those human rights protected by the Charter and to abolish practices which violated those rights.

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GOV 'Ignorant' As To IACHR Procedures  
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15. (C) The GOV offered no response to the allegations in its contra although, according to IACHR procedures, it should have filed a written response to the suit with the court. Despite the GOV's lack of response, the Court convened public hearings on the case June 27 and 28 to finalize the allegations against the GOV and admit witness and expert testimony into the court's record. Carlos Ayala, a lawyer for the defense, informed poloff July 11 that one week prior to the hearings, the GOV offered to sign a friendly agreement to forgo the public hearing. Ayala stated that the GOV's lack of response and last minute offer betrayed an overall ignorance of how to function in an international context governed by set rules and procedures. The defense rejected the GOV's offer and the case proceeded as planned to oral hearings held June 27 and 28.

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GOV Concedes To All Charges...  
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16. (C) On June 28, after the court had heard witness and expert testimony on the events which occurred in Vargas in December 1999, representatives of the GOV elected to read a written letter of concession in lieu of presenting oral arguments. Ayala told poloff July 11 that the GOV's concession at that point in the proceedings was a surprise. The normal process is for a concession to be made at the beginning of the hearings and not after testimony.

17. (U) The GOV's concession began by stating that it "conceded to the allegations made in the suit against the State of Venezuela and accepted in good faith its international responsibility in this case." The GOV specified that as a consequence of this concession it recognized its commitment to reparations including the indemnization of the victim's families, a guarantee of no repetition, and the obligation to investigate the case and to punish those responsible. The GOV made no mention of

judicial reform, which the Commission had specifically requested.

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...Or Does It?  
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18. (C) Ayala told poloff July 11 that the GOV's written concession also contradicted several key charges in its contra. The GOV stated that it had begun a serious investigation and initiated judicial remedies to find those responsible for the disappearances "without losing any time" after Vargas tragedy in December 1999. The GOV also asserted that there was no lapse of justice as regards the representation's denied motions of habeas corpus, and that the Venezuelan courts acted "strictly according to the law and constitution" in issuing those decisions. These two points contradicted allegations regarding the lack of due process on the case.

19. (U) The GOV's written concession also denied state responsibility for the violations committed in Vargas. After noting that the GOV had reformed the Venezuelan penal code to bring it in line with the Inter-American Charter on Forced Disappearances and promising to conclude the investigations of the disappearances of those cited in the case, the GOV asked the court to declare that the violations in Vargas resulted from "the isolated conduct of low ranking officials that could in no way be attributed to orders issued down the chain of command of the Venezuelan government."

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Defense Asks Court To Reject GOV Concession  
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10. (C) Jose Gregorio Guarenas, one of the lawyers present for the defense, told poloff July 12 that the defense requested a recess to review the GOV's written concession. Upon review, the defense asked the IACHR to reject the GOV's written concession because it contradicted important

allegations against the GOV and therefore did not qualify as a concession as outlined by article 53.2 of the IACHR's regulations. Guarenas stated that instead of passing the case to sentencing as requested by the defense, the court decided to take the oral testimony of the GOV in order to clarify the nature of its written concession.

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GOV Testifies To Full Responsibility Before IACHR...  
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11. (C) In answer to the questions posed by the court, the GOV testified that it fully accepted the facts of the case as well as the allegations against it. The court noted the GOV "acting on good faith, accepted its international responsibility in this case" and had made a full concession. Defense attorney Liliana Ortega told Poloff July 12 that the GOV's written concession was a media stunt designed to cloud the issue in the public's mind, but that in the view of the court, the GOV had made a full concession. Still, she noted that the GOV's written concession as well as its oral testimony were recorded as part of the IACHR's resolution on the case.

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...But GOV Leaders Present Different Picture To Public  
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12. (C) Attorney General Isaias Rodriguez speaking to press July 29 stated that the IACHR decision "did not condemn Venezuela, but rather established an important distinction between some officers acting individually and the state." Rodriguez added the Public Ministry was investigating those functionaries who had committed excesses. The President of the Supreme Court Omar Mora Diaz told the press July 29 that in admitting that human rights violations had occurred in Vargas, Venezuela had demonstrated that it was a responsible state. Furthermore, Mora continued, authorities were asked to control the situation with regard for human rights, but "this isn't to say that some low-level functionary might not have committed some outrage." Carlos Ayala told Poloff July 11 that he was concerned by public statements made by GOV officials alleging a lack of state responsibility for Vargas and that he planned to submit these reports to the IACHR.

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Comment  
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13. (C) The GOV's concession on Vargas appears to be driven more by a lack of alternatives than a desire to make amends. The GOV conceded to cover a weak case, and then attempted to spin its concession to the court and the Venezuelan public as an act of good faith. GOV remarks to the public denying state responsibility directly conflict with its concession to

the court. IACHR sentencing is due this fall, and the defense has requested reparations which extend beyond the financial to include guarantees of non-repetition. This would imply real judicial reform. Whether or not the GOV makes these amends will be a far more telling indication of its good faith than its concession to the court.  
Brownfield

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